



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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Courtney Phillips, Chief Executive Officer
Department of Health and Human Services
301 Centennial Mall South
Lincoln, NE 68509

Dear Ms. Phillips:

This letter is provided pursuant to AICPA Auditing Standards AU-C Section 265.A17, which permits the early communication of certain audit findings due to their significance and the urgent need for corrective action. The audit work addressed herein was performed as part of the fiscal year 2015 Comprehensive Annual Financial Report (CAFR) and Statewide Single (Single) audits. This communication is based on our audit procedures through September 11, 2015. Because we have not completed our audits of the fiscal year 2015 CAFR or Single, additional matters may be identified and communicated in our final reports.

In planning and performing our audits of the financial statements, we considered the State's internal control over financial reporting (internal control) as a basis for designing audit procedures for the purpose of expressing our opinions on the financial statements of the State, but not for the purpose of expressing an opinion on the effectiveness of the State's internal control. Accordingly, we do not express an opinion on the effectiveness of the State's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as discussed below, we identified certain deficiencies in internal control that we consider to be significant deficiencies.

We noted certain internal control or compliance matters related to the activities of the Nebraska Department of Health and Human Services (DHHS) or other operational matters that are presented below for your consideration. The following comments and recommendations, which have been discussed with the appropriate members of DHHS and its management, are intended to improve internal control or result in other operating efficiencies.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. We did not identify any deficiencies in internal control that we consider to be material weaknesses.

A significant deficiency is a deficiency, or combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider Comment Number 1 (The Overpayment Mailbox) and Comment Number 2 (Receivables for Programs Other Than SNAP) to be significant deficiencies.

Those comments will also be reported in the State of Nebraska's Statewide Single Audit Report – Schedule of Findings and Questioned Costs.

Draft copies of this letter were furnished to DHHS to provide management with an opportunity to review and to respond to the comments and recommendations contained herein. All formal responses received have been incorporated into this letter. Responses have been objectively evaluated and recognized, as appropriate, in the letter. Responses that indicate corrective action has been taken were not verified at this time, but they will be verified in the next audit.

Background Information

DHHS administers multiple Federal and State public assistance programs. These programs are administered through the Nebraska Family Online Client User System (NFOCUS) application, which is used to automate benefits and case management.

Overpayments can occur due to the following:

- Administrative Error: Any overpayment caused by DHHS, such as worker error or failure to make changes timely.
- Inadvertent Household or Provider Error: Any overpayment caused by a household's or provider's misunderstanding or unintended error.
- Intentional Program Violation or Fraud: Any overpayment caused by a household or provider making false or misleading statements or withholding facts in order to receive undeserved benefits.

When an overpayment is determined, DHHS sets up an NFOCUS receivable. Three different types of receivables can be established:

- Eligibility overpayments arise from programs like the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), and Aid to the Aged, Blind, and Disabled (AABD). For these programs, monthly assistance payments

are determined using a budget based on the recipient's income and resources. The payment is made directly to the recipient. For these receivables, a DHHS worker corrects the budget and sets up recoupments from future payments. The current budget is reduced by 10% or 20% until the overpayment is recouped.

- Claim overpayments arise from programs like Child Care, Foster Care, and Adoption Assistance. For these programs, payments are generally made to the provider of the service. A DHHS worker changes the claim in NFOCUS to lower the rate, units of service provided, etc., and then the receivable is recouped by reducing future payments to the provider.
- External overpayments are used when a budget or claim overpayment is not possible. DHHS will establish an external overpayment for collection and begin other collection efforts.

We requested DHHS to provide a listing of NFOCUS receivables as of March 31, 2015. Per NFOCUS, the accounts receivable balance at March 31, 2015, was \$10,709,393. Of this amount, \$480,436 was approved under LB554 to be written off as uncollectable effective May 21, 2015.

Program	NFOCUS Receivable Amount	Number of Accounts Receivable
Supplemental Nutrition Assistance Program (SNAP)*	\$ 3,732,733	4,960
Temporary Assistance for Needy Families (TANF)	\$ 2,678,377	3,951
Child Care	\$ 2,563,481	1,557
Children and Family Services	\$ 602,515	546
Aid to the Aged, Blind, and Disabled (AABD)	\$ 472,725	543
Medicaid	\$ 337,127	239
Other Programs	\$ 322,435	290
Totals	\$ 10,709,393	12,086

*Formerly referred to as Food Stamps

Eligibility overpayments were referred to the Overpayment Mailbox (Mailbox) to be worked by the Overpayment Unit. As of May 4, 2015, thousands of referrals in the Mailbox had not been investigated or set up as a receivable. The NFOCUS receivable amount noted above does not include those overpayment referrals.

Federal regulations for SNAP claim collections can be found at 7 CFR § 273.18 (January 1, 2015). For these, DHHS sets up a recoupment or payment agreement with the recipient. Delinquent accounts are submitted to the Federal Treasury Offset Program (TOP). The TOP is a centralized offset program to collect delinquent debts owed to Federal agencies and States. The TOP disburses Federal payments, such as tax refunds, to the State.

Other programs follow the DHHS Collection Policy. See **EXHIBIT A**. DHHS uses monthly billing statements, letters, and collection agency referrals. Collection efforts are suspended, with the exception of monthly billing statements, while recipients or providers are on other public assistance programs.

Per NFOCUS, DHHS collected or recouped \$3,668,045 during fiscal year 2015.

Program	Collections
SNAP	\$ 1,257,424
Children and Family Services (CFS)	690,202
DD Adult Comprehensive Waiver	656,840
Child Care	454,849
Child Developmental Disabilities	158,414
TANF	143,951
AABD	129,922
Other programs	176,443
Total	\$ 3,668,045

Overall Summary

DHHS did not establish receivables timely, if at all. Consequently, thousands of overpayment referrals were not pursued, meaning that DHHS has not attempted to recover potentially millions of dollars in overpayments. In many other instances, moreover, DHHS failed to follow its own collection policy. Without adequate controls to ensure receivables are properly established and collected, overpayments will not be recovered, resulting in an increased taxpayer burden.

Comments and Recommendations

1. The Overpayment Mailbox

On November 30, 2011, DHHS set up the Overpayment Mailbox (Mailbox) for eligibility overpayments. Previously, Social Service Workers (SSWs) would set up overpayments and underpayments in NFOCUS as they discovered them. Eligibility overpayments were referred via an email to the Mailbox to be worked by an Overpayment (OP) Unit team. SSWs would still work any eligibility underpayments, in order to get increased benefits to families as quickly as possible.

We requested a copy of the Mailbox contents and noted 20,708 referrals in the Mailbox as of May 4, 2015. We noted several issues, as detailed below.

Referrals Not Worked Timely, Or At All

SNAP regulation 7 CFR § 273.18(d)(1), requires the State to “establish a claim before the last day of the quarter following the quarter in which the overpayment or trafficking incident was discovered.” DHHS follows this timeframe for all programs. Per 475 NAC 4-007.01C, related to SNAP, “All overpayments must be established no later than the calendar quarter following the

quarter of discovery. All overpayments are established even if the timeliness standard cannot be met.” A good internal control plan requires procedures be in place to ensure overpayments are set up in a timely manner.

The Mailbox included 22,489 emails of which 20,708 were referrals and 1,781 were other items, such as policy instructions or emails to the DHHS Special Investigations Unit. We noted 60% of referrals were not worked, therefore no account receivable had been established.

	Total Referrals	Total Worked	% Worked
December 2011 – June 2014	13,280	5,702	43%
July 2014 – May 4, 2015	7,428	2,481	33%
Entire Mailbox	20,708	8,183	40%

We reviewed 50 referrals, including 9 unworked, 8 active, and 33 completed referrals. We noted 25 of 50 referrals tested were not worked timely or at all. Referrals not worked or not worked timely averaged 246 days (or 8 months) late.

	Less than One Month Late	One Month to a Year Late	One to Two Years Late	Over Two Years Late
Unworked/Active Referrals	0	8	2	2
Completed Referrals	3	9	1	0
Total	3	17	3	2

There are many old referrals in the mailbox, and DHHS did not have a clear policy on which cases to prioritize. Generally, older referrals were worked first. However, sometimes DHHS would go back only so far and leave older referrals unworked. For example, beginning in January 2015, to meet SNAP timeframes, DHHS decided to start fresh with looking back at referrals beginning October 1, 2014, because they were due to be set up no later than March 31, 2015. That means any referrals before October 1, 2014, have little chance of being reviewed. For another example, we observed an email instructing OP Unit staff to work newer cases as of a certain date but also to work one older case a day.

According to DHHS, the OP Unit was established “to provide consistency and accuracy in the determination and establishment of overpayments” and “so the overpayments can be assigned to specific staff and acted on in a timely manner.” However, based on 60% of referrals not worked, it is obvious that DHHS has not devoted adequate resources to ensure all referrals are completed in a timely manner. During the fiscal year, eight staff worked half of their time on the OP Unit. The average amount of the receivable for overpayments we tested was \$543. Considering the number of referrals not worked, there is potentially millions of dollars in overpayments that DHHS has not attempted to recover.

Without adequate controls and resources to work suspected overpayments, timeframes set by Federal regulations will not be met. Overpayments not worked timely have a lesser chance of collection. Overpayments not worked at all will have no chance of collection.

Organization and Monitoring of Mailbox

A good internal control plan requires procedures to ensure overpayment referrals are properly tracked and monitored.

The Mailbox is disorganized, with a total of 438 folders and subfolders. It appears folders have been incorrectly moved within other subfolders. For example, one folder contained referrals of the Fremont Overpayment Team, which is no longer in operation. The folder had 67 subfolders and 3,695 emails that were all buried under the subfolder of a specific employee in a different team's folder. DHHS procedures for tracking the referrals have changed over time. Newer OP Unit workers have folders for Complete and Pending each week, while previous OP Unit workers embedded the data on the status of referrals within each individual email.

Unworked referrals appear to be housed in multiple different subfolders. Several different subfolders appear to have unworked emails, including a folder for all overpayments referred between January 27 and September 29, 2014. The OP Unit Supervisor was unaware of all the subfolders containing unworked emails until we brought them to her attention.

We noted 85 referrals prior to fiscal year 2015 were still in subfolders of employees no longer in the OP Unit, which means current members of the OP Unit are unlikely to complete them. When OP Unit workers leave the team, it appears that supervisors sometimes fail to review their subfolders and reassign the open cases. We also noted two fiscal year 2015 unworked referrals in an active folder for staff no longer on the OP Unit, which indicates the referrals should have been reassigned. The referrals were from June 2014 and December 2014.

During our testing of 57 receivables, we noted two instances of an NFOCUS narrative indicating that a referral had been made to the Mailbox, but we could not locate it in the Mailbox. It is unknown if the referral was never sent or if it was sent to the Mailbox and then deleted.

Further, we noted DHHS does not have controls to ensure all referrals sent to the Mailbox are worked. The supervisor overseeing the OP Unit indicated she reviews OP Unit work by looking at subfolders, but she relies on the workers to report to her what they do each week.

We also noted the existence of another mailbox, DHHS Policy Questions NFOCUS. Per DHHS, this mailbox was used to store overpayment referral emails for a short time before the Mailbox was created. DHHS indicated all overpayment referrals were moved from the DHHS Policy Questions NFOCUS mailbox to the Mailbox; however, we were unable to verify this due to the size of the DHHS Policy Questions NFOCUS mailbox.

Access to Mailbox

A good internal control plan requires procedures to ensure those with access to the Mailbox have a logical need for such access. NITC Standards and Guidelines, Information Security Policy 8-101, Section 4.7.3, Privileged Accounts Management, states the following

The issuance and use of privileged accounts will be restricted and controlled. Processes must be developed to ensure that users of privileged accounts are monitored, and any suspected misuse is promptly investigated.

When an SSW discovers a potential overpayment related to SNAP, TANF, or AABD, he or she narrates the issue in NFOCUS and then sends an email with the pertinent information to the Mailbox. All members of the OP Unit have access to the Mailbox.

All individuals with access to the Mailbox had the ability to compromise the account, which includes deleting referrals. A total of 62 individuals had access to the account during all or a portion of the fiscal year. Of those 62, we noted 13 never worked on the OP Unit and should not have had access, and 19 had access after they were no longer with the OP Unit, with five of those individuals having access more than two years longer than necessary.

OP Unit staff could easily delete emails, either intentionally or in error, and not be detected. The Mailbox contains multiple folders, including a Deleted Items folder. During testing of all 16 emails in the Deleted Items folder, we noted one SNAP referral was unworked, and another SNAP referral was worked but not properly stored in a completed folder. The Deleted Items folder also appeared to be automatically cleared out every night. DHHS did not have procedures to ensure all referrals were maintained and not deleted.

We recommend DHHS implement procedures and devote adequate resources to investigating, and establishing NFOCUS receivables. If DHHS continues to use the Mailbox for eligibility overpayments, care should be taken to ensure all emails are properly tracked, monitored, and maintained. DHHS should ensure those with access to the Mailbox have a logical need for such access.

DHHS Response: DHHS has been involved in a Business Process Re-engineering contract provided to Nebraska by the USDA Food and Nutrition Service. Through these efforts, DHHS is working on a detailed value stream map of the current overpayment process to identify potential efficiencies and better practices to improve this process from the point of Social Service Worker identification to the recoupment of the accounts receivable. After the processes are more efficient a review of the staffing needed to maintain the process will be conducted. The Mailbox will be updated so that only staff currently involved in the overpayment process have access.

2. Receivables for Programs Other Than SNAP

Per NFOCUS, there were 7,126 accounts receivable, totaling \$6,976,660, for programs other than SNAP at March 31, 2015. We tested 42 accounts receivable, totaling \$195,225, for programs other than SNAP and noted various errors, as described below.

Receivables Not Set Up Timely

Fifteen of the accounts receivable tested were set up during State fiscal year 2015. Four of the 15 were set up after the calendar quarter following the date of discovery. The receivables were set up 37, 108, 159 and 196 days late.

Collection Policy Not Followed

Good internal control requires the DHHS Collection Policy and payment agreements be followed. The DHHS Collection Policy states, in part, the following:

(2) DHHS will send regular billing statements for all accounts receivable, except when prohibited by law.

(3) [F]or accounts which are 90 days overdue, unless suitable arrangements have been make for payment . . . DHHS will send the Debtor a letter, signed by the appropriate Director, requesting payment . . . if no response is received within 30 days of the initial letter, DHHS will send the Debtor a second letter, signed by a DHHS Legal and Regulatory Services (LRS) attorney, again requesting payment . . . if no response is received within 30 days of the second letter, DHHS generally refers to the Collection Agency if the balance of the receivable is between \$100 and \$2,000.

. . . .

(6) Except in situations where collection efforts are required by law, DHHS will suspend collection efforts, with the exception of monthly billing statements, during any period that the Debtor is receiving state or federal needs-based assistance, whether or not the statute of limitations may expire prior to the termination of the needs-based assistance.

(7) Accounts referred to the DHHS collection agency will be returned to DHHS for review after twelve months have elapsed with no payments received.

The Collection Policy was not followed in 35 of 42 receivables tested (some receivables had more than one type of error):

- DHHS did not have written policies or procedures to ensure repayment agreements were reasonable. We noted one receivable with a beginning balance of \$24,425. A repayment agreement was approved for only \$35 per month, which would take 58 years to repay.
- Four receivable balances were suspended because DHHS was unable to locate the recipient. When a receivable is suspended, no collection efforts are performed. In three of the instances, the recipient's address was later updated when the recipient applied for and received assistance in other NFOCUS programs; however, the receivables remained suspended. The individuals were located in this manner in July 2013, January 2014, and October 2014. The fourth receivable was suspended in December 2012, and it does not appear DHHS attempted to locate the recipient.
- One receivable was created in 2007. In 2010, a duplicate receivable was created and, when this was discovered, the worker closed the original receivable instead of the duplicate. The overpayment was due to the biological father receiving TANF cash assistance on behalf of the children while the children were in foster care. Information regarding the children's whereabouts is stored in NFOCUS, but the worker approving TANF payments either did not notice or did not have access to this information in NFOCUS.
- For two receivables with significant balances of \$126,881 and \$49,673, collection was not pursued with the exception of monthly billing statements because the recipient was on public assistance. The collection efforts for the \$126,881 receivable were

inappropriately suspended. The individual was not on needs-based assistance but was actually in prison. In relation to this overpayment, the recipient was found guilty of Theft by Deception, over \$1,500, a Class III Felony. In this criminal case, restitution was not ordered because the recipient was sentenced to a prison term instead. DHHS could explore pursuing the amount from the recipient in civil court. DHHS should revisit its collection policy to determine whether it is appropriate to suspend collection efforts on large balances. We noted DHHS recoups overpayments from low-income recipients if the balance is within the same program, but suspends collection efforts if the receivable balance is in a program different than the one from which the recipient is currently receiving assistance.

- For five receivables, billing statements were never sent because the repayment method on NFOCUS was incorrectly set as a recoupment of future payments. The individuals were not receiving payments through NFOCUS; therefore, the repayment method should have been set as a cash reimbursement. Billing statements are only sent when the receivable is set as a cash reimbursement.
- For 27 receivables, totaling \$179,623, the procedure for accounts 90 days overdue was not followed. DHHS uses a manual process to follow up on non-SNAP accounts receivable. Each month, the DHHS Medicaid/Financial Responsibility Unit reviews a list of accounts receivable with current balances and then must manually sort through the list to determine if the receivable is 90 days overdue and what action must be taken on the account, including the sending of director or legal letters and the referral to the collection agency.
 - For 13 of these 27 receivables, the director and legal letters were not sent, and the receivables were not referred to the collection agency or to DHHS Legal and Regulatory Services (DHHS LRS) for further action. Two of these delinquent receivables were against current providers receiving millions of dollars in payments each year. We identified three additional delinquent receivables for these providers that were not being collected because the provider changed its organization ID, or the program related to the overpayment closed. Collection of receivables for current providers should be done regardless of changes in organization IDs in NFOCUS or a change in programs.
 - For five receivables, DHHS sent the director and legal letters but failed to refer the case to the collection agency or to DHHS LRS when payments were not received.
 - For nine receivables, the director letters, legal letters, and/or referral to the collection agency occurred late, ranging from 1 month to 13 months late.
 - We noted one AABD receivable with a balance of \$1,874 that was delinquent as of April 25, 2014. The overpayment was due to an agency error. After the initial legal letter was sent, sporadic payments were made, with the last payment made on February 13, 2015. The receivable was not sent to the collection agency as required by the collection policy. We noted the debtor is a current employee of DHHS.

- Another receivable had a current balance of \$2,196. Per NFOCUS, the debtor had \$212,381 in income in calendar year 2014, which indicated the debtor had the resources to make payments on the account, and additional legal action should have been pursued.
- For seven receivables, totaling \$31,637, the legal letters were sent, but no other legal action was taken by DHHS LRS. Additionally, no lawsuits were filed on any NFOCUS accounts receivables during fiscal year 2015, and there are no written policies regarding legal action to be taken on delinquent accounts receivable.
- For nine receivables, the billing statements were sent between one and seven months late.
- Three receivables were at the collection agency longer than 12 months but were not returned to DHHS.

Many of the issues noted were caused by worker error. Processes that could be automated in NFOCUS were not. For example, letter generation in the SNAP program is automated, but similar steps for non-SNAP programs are not. DHHS could automate the changing of receivable status from cash to recoupment and vice versa, but has not.

Missed Recoupments

Per TANF Program Instructions TANF-ACF-PI-2006-03(2), “[O]verpayment recoveries will be made either through recoupment from recipient’s current TANF grant if they are still receiving cash assistance or through a cash repayment from former recipients.” A good internal control plan requires procedures to ensure all accounts are recouped, if possible.

For three accounts receivable, the recipient or provider was currently receiving payments in NFOCUS, so a portion of the benefits or provider payments should have been recouped and applied to the receivable balance, but they were not recouped in all eligible months. Potential recoupments, totaling \$2,744, were missed. One of these receivables was suspended in error. For another receivable, the provider changed organization ID’s in NFOCUS. DHHS should have moved the balance to the new organization ID, so it could be recouped. This provider currently receives millions of dollars in payments each year.

Missing Demand Letters

Per both Title 468 NAC 3-008.07B, related to TANF, and Title 469 NAC 3-007.03B2, related to AABD, “The worker must first send a demand letter, giving the client the choice of reimbursing all or part of the overpayment or having future assistance reduced.” Per Title 465 NAC 2-001(3), the Client of any program has the right to “receive adequate notice of any action affecting his/her application or case [.]”

For 11 of the accounts receivable tested, DHHS could not provide the demand letter. DHHS had no explanation for why the demand letters could not be located; it is possible they were never sent.

Statute of Limitations

Neb. Rev. Stat. § 25-205(1) (Reissue 2008) says that “an action upon a specialty, or any agreement, contract, or promise in writing, or foreign judgment, can only be brought within five years.” Additionally, according to the Nebraska Supreme Court, a “voluntary payment of any part of principal or interest tolls statute of limitations and new right of action accrues after each payment . . .” *Pick v. Pick*, 184 Neb. 716, 171 N.W.2d, 766 (1969).

Five receivables were past the statute of limitations and should have been written off but were not. We noted DHHS’ procedure is to request the write off of all receivables that have expired during the State fiscal year in the next legislative session. For example, receivables expiring between July 2013 and June 2014 were accumulated and requested for write off in the 2015 legislative session, which occurred from January through June 2015. DHHS could have included accounts expired through December 2014 but did not. DHHS should request write-offs in a timelier manner.

Receivable Mishandled

A good internal control plan requires procedures to ensure payments received are applied to the accounts receivable balance. In one case, the balance was paid but DHHS failed to apply the payment to the receivable account, resulting in an overstatement of \$888 of the receivable.

Programs Missing from Receivable Reports Used in Financial Statements

A good internal control plan requires procedures to ensure the reports used to accumulate accounts receivable on the financial statements include all relevant programs and related receivables, and they are not duplicated. The programs Developmental Disabilities Adult Residential Waiver, Former Ward, Independent Living, Child Developmental Disabilities, Social Services Children & Families, Developmental Disabilities State Aid, Developmental Disabilities Community Support Adult Waiver, and Low Income Home Energy Assistance Program (LIHEAP) were not included in the receivable reports provided by DHHS to the auditors, resulting in an understatement of receivables of \$31,943.

NFOCUS does not allow a query for all programs. Instead, specific programs must be selected, and staff failed to ensure all programs were included.

Child Support Payment Retention

A good internal control plan requires procedures to ensure accounts receivable balances in NFOCUS are correct. Children Have A Right To Support (CHARTS) is the system used by DHHS for the Child Support Enforcement (CSE) program.

We tested two TANF receivables classified as child support payment retention. These are receivables set up by DHHS CSE staff in the CHARTS system when custodial parents (CPs) received child support payments in error. CSE staff typically establish payment agreements with the CPs. If the CPs are on TANF, the agreement might include a provision to take \$25 per month from the TANF assistance payment. In order for the recoupment to work, CSE staff asks NFOCUS staff to set up the receivable on NFOCUS as well. This causes the receivable to be on two separate State systems and overstated on the financial statements.

NFOCUS applies any TANF recoupments to the receivable but is not informed of CHARTS payments, so the NFOCUS balance report used for the financial statements shows the original balance of the receivable less any NFOCUS payments, not the actual balance reflecting any payments made in CHARTS. Additionally, for one of the receivables tested, the recipient erroneously received two monthly billings statements from NFOCUS, even though he was making timely payments through CHARTS. Per NFOCUS, as of March 31, 2015, DHHS had 95 receivables, totaling \$78,242, classified as child support payment retention.

For both receivables tested, the repayment agreement was for \$25 a month. At this rate, one case would take over 11 years to repay, and the other, over 4 years. Per DHHS, the typical \$25 amount has been in place for years and was probably based on the fact that it is approximately 10% of TANF monthly payments to the family. For both receivables tested, the repayment agreements were set up when the families were on TANF, but the families soon went off TANF. DHHS should review payment agreements for reasonableness when a family goes off assistance. If the intent was to collect 10% of the family's monthly income, then one case should have taken \$225 per month, and the other \$38.

It appears DHHS set up these receivables in both the NFOCUS and CHARTS systems to facilitate collection efforts; however, adequate consideration was not given to the effect on the financial statements or the likelihood for erroneous billing statements to be sent.

Inadequate controls and procedures result in fewer collections of Federal and State funds that could be used to reduce the taxpayer burden.

We recommend DHHS improve collection efforts. DHHS should implement controls and procedures to ensure policies are followed, workers are properly trained, and supervisory reviews are documented. DHHS should review its collection policy and consider automating more collection processes in NFOCUS. Additionally, DHHS should have a written policy for child support repayment agreements, including the amount to recoup from TANF assistance. We recommend, moreover, DHHS consider basing the amount recouped on a percentage of assistance. The policy should also address procedures for when the family stops receiving assistance. Finally, DHHS should ensure receivables reflected on two systems are accurate on both and not duplicated on the financial statements.

DHHS Response: DHHS will review the receivables collection process for efficiencies and implement any necessary changes. A joint effort between units within DHHS will be conducted to determine what policies and procedures will be put in place to ensure that the receivables collection process is adequate.

3. Collection Agency

Delinquent SNAP accounts receivable are referred to the Treasury Offset Program, per Federal regulations. DHHS has not explored making use of TOP to collect on delinquent accounts for other programs.

DHHS awarded a two-year contract for debt collection services to The Affiliated Group (TAG) from May 15, 2010, through May 14, 2012. The contract was renewed twice with an end date of May 14, 2016. TAG was paid \$19.95 for each account referred and collected \$32,831 in payments for the State.

Fiscal Year	Payment Amount	# of Referrals
2011	\$ 15,581	781
2012	\$ 7,521	377
2013	\$ 180	9
2014	\$ 9,097	456
2015	\$ 452 *	6**
Total	\$ 32,831	1,629

*The payment amount included a \$332 refund for insufficient checks. The remaining \$120 was payment for six referrals.

**The referrals were made during June 2014 and paid during SFY 2015.

We noted several issues relating to the use of the collection agency, as detailed below.

Fixed Price Contract

DHHS' fixed-price contract with TAG for collection services does not penalize poor performance. Additionally, the Medicaid/Financial Responsibility Administrator understood that the contract could not be based on a percentage collected; rather, the fee had to be on a per-account basis.

Addendum Two of the request for proposal (RFP) included answers to questions submitted by potential bidders regarding the RFP. One question asked, "Is the state requesting that all collection agency fees be based on a flat per account rate?" DHHS answered, "Yes, the State is requesting that all collection agency fees be based on a flat per account rate." Another question asked, "Can the cost per account be priced as a percentage of the collection contingency fee or should be the cost be priced per account?" DHHS answered, "The price should be per account since contingency fee is prohibited."

We inquired why a contingency fee contract was prohibited, and DHHS Legal Services responded that the State could enter into a contingency fee contract; however, additional work might be required under Neb. Rev. Stat. § 73-203 (Reissue 2009), which states the following:

Any contingent fee contract of any kind whatsoever reasonably anticipated to result in the payment of a contingent fee or fees in excess of twenty-five thousand dollars per annum executed by the state or by any person on behalf of the state after September 9, 1995, is void unless executed by the Governor upon thirty days' notice to the public at large.

A good internal control plan requires contracts to include performance standards. Contracts should be monitored to ensure performance standards and contract objectives are met. A fixed-price contract with no penalties for poor performance offers no incentive for the collection agency to pursue delinquent accounts aggressively.

Per DHHS, there were 923 accounts at TAG as of June 30, 2015, with a total balance of \$732,461. During fiscal year 2015, TAG collected \$4,081 in payments, a collection rate of less than 0.6%.

Month	Amount Collected by TAG
July 2014	\$ 388
August 2014	\$ 373
September 2014	\$ 476
October 2014	\$ 608
November 2014	\$ 352
December 2014	\$ 20
January 2015	\$ 393
February 2015	\$ 524
March 2015	\$ 392
April 2015	\$ 111
May 2015	\$ 40
June 2015	\$ 404
Total	\$ 4,081

Lack of Referrals

DHHS made no referrals of delinquent accounts receivables to TAG during fiscal year 2015.

Per the DHHS Collection Policy, accounts 90 days overdue and from \$100 to \$2,000 should be referred to the collection agency. According to the Medicaid/Financial Responsibility Administrator, referrals should be made once a month. A list of accounts receivable that met the collection agency requirements was prepared once during the fiscal year; however, it was not submitted to the collection agency due to difficulties DHHS experienced in formatting the data.

Lack of Written Procedures

A good internal control plan requires written policies and procedures over the collection agency referral and payment tracking process to ensure the following:

- The accounts receivable balances per NFOCUS agree to the balances reported at the collection agency.
- Any accounts receivable adjustments and accounts closed are reported timely to the collection agency.

DHHS lacked written policies or procedures for ensuring balances and adjustments were properly reported to the collection agency or tracking collection agency accounts and payments received.

Referrals of delinquent accounts can be made from various programs and facilities. The Medicaid/Financial Responsibility Administrator provided a list of open accounts at TAG as of June 30, 2015. This list identified the following accounts by program/facility and amount.

Program/Facility	# of Accounts	Balance
Developmentally Disabled (Note 1)	11	\$ 370,106
Insurance & Collections (Note 2)	1,038	\$ 862,440
Public Health	35	\$ 24,788
Program Integrity	6	\$ 7,326
Youth Rehab Treatment Center Kearney	1	\$ 128
Total	1,091	\$ 1,264,788

Note 1: These are delinquent community-based developmental disability ability to pay accounts. These are not included with NFOCUS receivables reported for the financial statements.

Note 2: Includes delinquent accounts for various DHHS programs such as Child Care, Foster Care, TANF, and AABD. The Medicaid/Financial Responsibility unit is responsible for the collection of these accounts.

We traced 25 Insurance & Collections accounts to the information in NFOCUS. For 9 of 25 accounts tested, the balance on the TAG report did not agree to the current balance in NFOCUS. These nine accounts were all noted to have a \$0 balance in NFOCUS and were written off – per LB 554 (2015), effective May 21, 2015, and LB 949 (2011), effective March 30, 2014 – after approval through the claims board. The accounts properly showed a \$0 balance in NFOCUS; however, they were still shown as outstanding accounts totaling \$33,214 with TAG as of June 30, 2015.

DHHS provided monthly reports containing the number of accounts receivable and the total balance of the accounts at TAG. These monthly reports appear inaccurate, as the number of accounts at TAG increased from 1,119 accounts in January 2015 to 1,144 in February and 2,707 in March. There were no referrals during fiscal year 2015; therefore, there should not be any increases in the number of accounts at TAG.

When a fixed-price contract with no penalties for poor performance is awarded, there is no incentive for the collection agency to pursue collections aggressively, resulting in an increased risk for loss of funds. When the DHHS Collection Policy is not followed and accounts receivable are not properly referred to the collection agency, there is an increased risk of fewer collections. Moreover, lack of written policies regarding collection agency procedures increases the risk that receivables and payments received will not be properly tracked and monitored.

We recommend DHHS follow the DHHS Collection Policy in referring accounts receivables to the collection agency. We also recommend DHHS establish written policies and procedures for properly tracking accounts receivables referred to the collection agency and the payments received. We further recommend DHHS explore a contingency fee contract in order to maximize collections. Finally, we recommend DHHS explore using TOP for delinquent accounts for all programs.

DHHS Response: DHHS will evaluate the performance of the collection agency and research other alternatives to improve the process. DHHS will reconcile outstanding collectible balances with the collection agency each month to ensure amounts are accurate. Communication between the collection agency and DHHS will be more timely to confirm that adjustments are made where appropriate. DHHS will explore the option of using a contingency fee contract for collections.

4. SNAP Receivables

Per NFOCUS, there were 4,960 accounts receivable, totaling \$3,732,733, for SNAP at March 31, 2015. We tested 15 SNAP accounts receivable, totaling \$13,447, and noted various errors, as described below.

Receivables Not Set Up Within Required Timeframes

Per 7 CFR § 273.18(d)(1) (January 1, 2015), a State must “establish a claim before the last day of the quarter following the quarter in which the overpayment or trafficking incident was discovered.”

Seven of the accounts receivable tested were set up during State fiscal year 2015. Three of these were set up 77, 81, and 171 days late. When accounts receivable are not set up in a timely manner, it increases the likelihood overpayments will not be collected.

Missed Recoupments

Per 7 CFR 273.18(g)(1) (January 1, 2015), a State must “[a]utomatically collect payments for any claim by reducing the amount of monthly benefits that a household receives.” Per Title 475 NAC 4-007.02C, “For households currently receiving benefits, recoupment occurs automatically through a monthly benefit reduction beginning the first month possible considering ten day notice of adverse action.”

For 8 of the 15 accounts tested, the recipient was currently on SNAP, so a portion of the benefits should have been recouped and applied to the receivable balance. For 4 of these accounts, however, the benefits were not recouped in all eligible months. Potential recoupments, totaling \$297, were missed for eight months.

Caseworkers need to recalculate SNAP budgets multiple times per year. This occurs, for example, when cases are recertified or when recipients report changes in their circumstances. Recoupments from prior budgets are not automatically included in new budgets and, unless made aware of the overpayment through review of NFOCUS or discussions with the recipient, the caseworker does not know to set up a recoupment. The DHHS Issuance and Collections Center (ICC) Unit runs reports to identify cases in which a recipient with an open account receivable is currently receiving benefits but no recoupment is initiated. The ICC Unit worker sets alerts in NFOCUS for caseworkers to rerun budgets to include recoupments. This process can take a few months, during which time recoupments are missed.

Missing Demand Letters

Per 7 CFR § 273.18(e)(3)(ii) (January 1, 2015), “The claim will be considered established for tracking purposes as of the date of the initial demand letter or written notification.” Per Title 475 NAC 4-007.04A, suspended accounts receivable are subject to the Treasury Offset Program if at least one demand letter has been sent.

For four of the accounts receivable, the Agency could not provide the demand letter. Per Federal requirements, the demand letter is necessary to suspend a case and refer it to the Treasury Offset Program. The demand letters may have been sent; however, we could not verify this because DHHS deleted the correspondence from its system after four years.

Transitional Benefits

Per 7 CFR § 273.27(a) (January 1, 2015), “When a household leaves TANF, the State agency may freeze for up to 5 months the household's [SNAP] benefit amount after making an adjustment for the loss of TANF. This is the household's transitional period.” Per 7 CFR 273.18(g)(1) (January 1, 2015), a State must “[a]utomatically collect payments for any claim by reducing the amount of monthly benefits that a household receives.” A good internal control plan requires procedures to ensure overpayments are properly recouped even if SNAP benefits are otherwise frozen.

For two receivables tested, the recipient was on transitional SNAP assistance, which is a five-month period where the budget is frozen except in limited circumstances. DHHS did not adjust or create recoupments on transitional benefit cases. We asked the Federal grantor for guidance and, per the USDA, “Transitional benefits are subject to administrative claims and transitional benefit cases can and should be adjusted for recoupment by the State agency” For the SNAP receivables tested, potential recoupments, totaling \$267, were not collected.

SNAP Cases Inappropriately Reopened

We noted two SNAP cases that were closed due to lack of recipient cooperation but were inappropriately reopened and benefits paid. In both cases, DHHS requested the recipients provide information necessary to determine the amount of overpayments, but the information was not provided. The OP Unit worker narrated in NFOCUS that SNAP benefits were closing, and the case should not reopen unless the necessary information was received. In both instances, however, another worker reopened SNAP. One case was opened a couple of weeks later, and the second case was opened about four months later, resulting in a total of \$2,848 in questioned costs for the fiscal year.

Case Mishandled

During our testing of the Mailbox, we noted one SNAP case for which receivables were not properly established. The original referral from the SSW was on October 1, 2014. The SSW noted errors that dated back to October 2012 due to misidentifying weekly wages as being biweekly. Because such agency errors can go back only 12 months, the receivables could go back to only October 2013. However, the OP Unit worker who took the case changed the date of discovery to the date the case was worked, January 21, 2015, explaining, “This is over 12 months old and will not be recouped.”

Even with DHHS’ new definition of the date of discovery (see Comment Number 5, Date of Discovery, below), the worker should have at a minimum looked for overpayments for the past 12 months from the date the case was worked, to January 2014. If DHHS had set up overpayments properly, a total of \$222 could have been recouped in fiscal year 2015.

We recommend DHHS implement procedures to ensure overpayments are established in a timely manner, recoupments occur automatically, and necessary correspondence is maintained.

DHHS Response: DHHS was not aware of the requirement to recoup overpayments on Transitional Benefit SNAP cases prior to this audit finding. An interpretation was required from the USDA National Office General Counsel for direction on this issue. DHHS will update regulations to include the treatment of overpayments on Transitional Benefit cases. Effective July 2015, the Repayment Method of an Accounts Receivable (AR) will automatically change when a Responsible Party goes from Closed to Pending or Active in a related program case. This will allow recoupment to begin when the first month of benefits are approved and authorized. NFOCUS created new architecture for correspondences which now stores all demand letters that have been created instead of deleting after a predetermined timeframe.

5. Date of Discovery

Per Title 475 NAC 1-002, “Date of Discovery: The date a potential overpayment is initially discovered.” Good internal control requires procedures to minimize overpayments and worker errors.

Prior to September 2014, DHHS defined the “date of discovery” for overpayments as the date the regular SSW first suspected a potential overpayment. This is in accordance with DHHS internal policies and the Claims Management Plan. The Claims Management Plan submitted to the Federal government states that the date of discovery is the “initial” discovery, ensuring that “all over issuances are investigated timely.” The date of discovery affects SNAP deadlines to set up the overpayment and subsequent collection efforts. In September 2014, DHHS redefined the date of discovery for SNAP to be whenever the OP Unit worked the case and determined an overpayment existed. This means an overpayment can sit for years in the mailbox and not be “discovered” until the OP Unit takes a look at it. This does not agree with the Claims Management Plan.

The revised date of discovery definition helps DHHS meet Federal deadlines; however, it decreases the likelihood overpayments will be collected, as agency-caused errors only have receivables established for 12 months before the initial discovery. Per 475 NAC 4-007.01A, “Overpayments must be established against households who were issued benefits they were not entitled to receive due to an AE (Administrative Error) for no more than 12 months before the month of initial discovery.” This State regulation conflicts with 7 CFR 273.18, which requires the agency to “calculate a claim back to at least twelve months prior to when you became aware of the overpayment.” (Emphasis added)

There is less incentive for DHHS to pursue collection on SNAP AE overpayments, as the Federal government requires all of those collections be returned in their entirety to the Federal government. However, those overpayments increase the taxpayer burden at the Federal level, and DHHS should actively pursue those receivables. In addition, per the OP Supervisor, approximately 80% of SNAP errors are caused by worker error, including failure to make timely changes to recipient budgets.

We recommend DHHS define the date of discovery as the date the regular SSW first becomes aware of a potential overpayment. DHHS should comply with Federal regulations and the Claims Management Plan. We also recommend DHHS implement procedures to reduce the number of SNAP AE overpayments.

DHHS Response: DHHS does not agree with Audit findings relating to the change in interpretation for the definition of Date of Discovery. DHHS made efforts to review overpayment processes. Through these reviews, it was determined overpayments referred to the overpayment mailbox were not overpayments for a variety of reasons including the reporting category requirements the household is assigned to and the State Agency recoupment thresholds.

The FFY 2015 Claims Management Plan defines Date of Discovery as the date an over issuance is discovered by DHHS. Upon review of this language, it was determined that an overpayment cannot be discovered until DHHS knows an overpayment actually exists. In order for the overpayment to be "discovered", the overpayment team assigned workers must first review the case and ensure the potential overpayment is not under the recoupment threshold. The overpayment has not been discovered until after DHHS has reviewed the overpayment referral, determined the overpayment exceeded the recoupment threshold and identified a dollar amount DHHS is responsible for collecting.

* * * * *

Our audit procedures are designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our objective is, however, to use our knowledge of DHHS and its interaction with other State agencies and administrative departments gained during our work to make comments and suggestions that we hope will be useful to DHHS.

This interim communication is intended solely for the information and use of DHHS, its management, the Governor and the State Legislature, and others within these State agencies. It is not intended to be, and should not be, used by anyone other than the specified parties. However, this letter is a matter of public record, and its distribution is not limited.

If you have any questions regarding the above information, please contact our office.

Sincerely,



Pat Reding, CPA, CFE
Assistant Deputy Auditor

DHHS COLLECTION POLICY

1. DHHS will recover accounts receivable as provided herein. DHHS Debtors will be treated with courtesy and respect. Upon request and whenever reasonable, DHHS will allow Debtors sufficient time to make voluntary payments over time.
2. DHHS will send regular billing statements for all accounts receivable, except when prohibited by law.
3. The following procedure will be followed for accounts which are 90 days overdue, unless suitable arrangements have been made for payment:
 - a. DHHS will send the Debtor a letter, signed by the appropriate Director, requesting payment.
 - b. If no response is received within 30 days of the initial letter, DHHS will send the Debtor a second letter, signed by a DHHS Legal and Regulatory Services (LRS) attorney, again requesting payment. The letter will contain an appropriate advisement regarding further action that may be taken.
 - c. If no response is received within 30 days of the second letter, DHHS will take the following action, based on the dollar value of the account:
 - i. Less than \$100.00 – Continue to send billing statements until payment is received or the debt is written off.
 - ii. \$100.00 to \$1,000.00 – Referral to the DHHS collection agency.
 - iii. \$1,000.00 to \$2,000.00 – Referral to the DHHS collection agency or, with the approval of LRS, to LRS.
 - iv. More than \$2,000.00 – Referral to LRS for decision on further collection efforts. LRS will initiate legal action or refer the account to the DHHS collection agency.
4. In determining whether legal action will be taken on an account, LRS will consider the following:
 - a. Whether the Debtor's current address is known;
 - b. Whether the Debtor is a Nebraska resident;

- c. Whether the Debtor owns real estate or other property of significant value;
 - d. Whether the Debtor is employed in Nebraska;
 - e. Any other factors that relate to the likelihood of obtaining and/or collecting a judgment.
5. DHHS will charge interest on accounts receivable when consistent with the Fair Debt Collection Practices Act, and as required by statute or court order.
6. Except in situations where collection efforts are required by law, DHHS will suspend collection efforts, with the exception of monthly billing statements, during any period that the Debtor is receiving state or federal needs-based assistance, whether or not the statute of limitations may expire prior to the termination of the needs-based assistance.
7. Accounts referred to the DHHS collection agency will be returned to DHHS for review after twelve months have elapsed with no payments received.
8. The DHHS Financial Services Administrator or designee(s) shall have authority to extend or accept lump sum settlement offers of 50% or more on any claims of \$10,000 or less. Documentation supporting any lump sum settlements shall be maintained by DHHS.
9. Accounts will not be presented for write off unless:
 - a. all economically feasible collection efforts required by this policy have been exhausted; or
 - b. the Debtor has obtained a bankruptcy discharge; or
 - c. the Debtor has been deceased for 12 months or more, and no probate action has been filed; or
 - d. the DHHS collection agency or LRS has attempted collection and deemed the account uncollectible; or
 - e. the statute of limitations has expired.

Dated this 12 day of July, 2011.



Kerry T. Winterer
Chief Executive Officer
Department of Health and Human Services